

REMARKS

Applicant has carefully considered the Final Office Action of January 5, 2006 and offers the following remarks in response thereto.

Claims 1-3, 7-9, 13-15, 17-19, 21-23, and 25-27 were rejected under 35 U.S.C. § 103 as being unpatentable over Ma et al. (hereinafter "Ma"). Applicant respectfully traverses. Ma is not prior art under 35 U.S.C. § 103.

Ma was filed March 28, 2001, but published April 11, 2002. Thus, Ma, on face, only potentially qualifies as prior art under 35 U.S.C. § 102(e), and not under any of the other provisions of 35 U.S.C. § 102. However, Ma is commonly owned with the instant application. Specifically, Ma is assigned to Nortel Networks Limited as evidenced by the assignment recorded at Reel/Frame 011654/0130. Likewise, the current application is assigned to Nortel Networks Limited as evidenced by the assignment recorded at Reel/Frame 012267/0532. Since the inventions are commonly owned and were so at the time of conception, 35 U.S.C. § 103(c) indicates that Ma is not prior art under 35 U.S.C. § 103/102(e). Applicant requests withdrawal of the § 103 rejection of claims 1-3, 7-9, 13-15, 17-19, 21-23, and 25-27 because Ma is not prior art.

Claims 4, 5, 10, and 11 were rejected under 35 U.S.C. § 103 as being unpatentable over Ma in view of Li et al. (hereinafter "Li"). Applicant respectfully traverses.

As noted above, Ma is not available as prior art under 35 U.S.C. § 103/102(e). Since Ma is not prior art, the rejection is not properly supported. Applicant requests withdrawal of the § 103 rejection of claims 4, 5, 10, and 11 at this time.

Applicant requests reconsideration of the rejections in light of the remarks presented herein. Ma is not prior art by virtue of its common ownership with the instant application. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

Benjamin S. Withrow  
Registration No. 40,876  
P.O. Box 1287  
Cary, NC 27512  
Telephone: (919) 654-4520

Date: February 1, 2006  
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